

Nevada State Constitution
Jeffrey M. Kintop, State Archives Manager
January 13, 2009

Nevada's Constitution was written in 1864 and is still Nevada's constitution, although it has been amended over 100 times. It was based on California's 1849 Constitution. California's strong influence is not surprising, since 34 of the 39 delegates had come from California, and several had served in government there.

There are 44 handwritten pages (17 x 24 inch paper) signed in 1864 by secretary William M. Gillespie and signed by the members of the Constitutional Convention, which were printed into 42 pages (5.5 x 8 inch paper) in 1865 by the State Printer. Today it exists as part of the *Nevada Revised Statutes*, in which the Constitution with legal annotations is 132 pages (6 x 8 inch paper).

The text printed in the current *Nevada Revised Statutes* is considered to be the "official" copy for legal use, although there are variations in punctuation between the official version and that printed at the end of the Constitutional Debates and Proceedings, which is presumed to be the version submitted for ratification by the people.

Why was the Constitution Telegraphed to President Lincoln?

Nevadans approved their new Constitution on September 14th and the votes were collected, counted and approved on September 27th. Governor James W. Nye sent the canvass of votes and certified copies of the Constitution by Overland Mail.

According to the Diary of Gideon Wells (New York, 1960), President Lincoln met with his cabinet on September 30th to discuss Nevada's entry into the Union. Secretary of State William Seward wanted the proclamation issued immediately because they had already received the election totals, attested to by Chief Justice George Turner and U. S. Attorney Theodore Edwards.

Secretary of the Treasury William Pitt Fessenden did not think Nevada should ever become a state and warned that the President should at least see the Constitution before any proclamation of admission was issued. Seward protested that Governor Nye worked hard for Nevada's admission and wanted to see it very much. Secretary of the Navy Gideon Wells thought that Seward would do anything for his favorites and also insisted Lincoln see the Constitution or else he might be embarrassed if it contained anything unacceptable. Wells considered Nye one of Seward's "pets" and knew they were both thick with New York political boss Thurlow Weed. The cabinet convinced Lincoln to wait until he saw Nevada's Constitution before issuing his proclamation.

On October 24th Nye received a telegram from Seward that he received the canvass of votes but not the constitution and the President would not issue his proclamation until he had received it. It was two weeks before the national elections and there was not time to send it by land or by sea. Horace Carpentier, the General Superintendent of the Overland Telegraph Company's Placerville to Salt Lake City District, told Nye to telegraph the document to Washington.

On October 26th, two of the California Telegraph Company's best telegraphers, Messrs. Hodge and Ward began sending the 16,543 word document from Carson City to Salt Lake City. According to the Carson Post, it took twelve hours to send. There was no direct link from Carson City to Washington. The Virginia Daily Union doubted the Post's story but James H. Guild, superintendent of the Carson City telegraph office upheld the claim and said they would do it again "under sufficient financial provocation."

The telegram had to be transcribed at Salt Lake City and resent to Chicago and then to Philadelphia before the receiver in the Office of the U. S. Military Telegraph in the War Department could transcribe the document in one hundred seventy-five pages and deliver it to President Lincoln. Receiving the telegram was a priority and it suspended the receipt of other war messages in the office for more than five hours. Lincoln received it two days after it was sent, some time after 10:45 PM. Nye's message to Seward sent on October 27th that he had telegraphed the Constitution reached him before the Constitution arrived.

Nye was in Unionville campaigning for the reelection of President Lincoln when Seward telegraphed the President's proclamation on October 30th. J. Neely Johnson, who was the President of the 1864 Constitutional Convention, received the telegram at 9:00 PM and forwarded it to Nye. Nye responded to Johnson at midnight and ordered him to issue it at once because the proclamation of statehood was to be official on October 31st.

Where can I see the original Constitution?

The original Nevada Constitution is on exhibit at the Nevada State Library and Archives in Carson City. The cabinets that hold the original constitution were designed in 1996 by Doug Southerland, then Exhibit Director of the Nevada State Museum, keeping every preservation and security issue in mind. The cabinets that hold the Nevada Constitution are made of oak, but behind the oak the pages are held in acid free matte board and surrounded by acid free hand laid paper to look like the inside of book covers. The pages were then mounted in stainless steel boxes fronted with thick glass coated acrylic -- bulletproof glass. The steel boxes are strapped in place under the oak cabinets. Each case is fitted with a fan to circulate air through charcoal filters. The windows and glass filter out 99% of the ultraviolet light spectrum and 60% of the visible light. Finally each of the 700 pound cabinets is mounted to the wall with electronic sensors and internal motion detectors that sound a silent alarm to Capital Police who also monitor the security camera.

Was it the longest telegram?

The question comes up every year: Was the Nevada Constitution the longest telegram ever sent? Was it the longest until 1864?

Pages 8 & 9 of the publication, *Nevada, the Centennial of Statehood: An Exhibition in the Library of Congress, Washington, D.C., June 23, 1965, to October 31, 1965*, (Washington: Library of Congress, 1965) reproduce the first and last pages of the telegram of the Nevada Constitution. The source is cited as the Nevada Territorial Papers in the National Archives. The last sheet contains a note with the total word count (16,543) and the cost of transmission (\$4,303.27).

For more than twenty years Nevada Archives staff followed leads of longer telegrams, but did not find proof of any until now. Newspaper articles made claims that something was the longest and now web sites are doing it, but few stood up to the 16,000 word telegram.

BUT, according to David McKittrick's, *History of Cambridge University Press* (New York, 2004) and Maurice Price's, *An Ancestry of Our English Bible...* (New York, 1921), on May 21, 1881, the *English Standard Version of the New Testament*, the first revision since the 1611 *King James Bible*, was published in England, transmitted across the Trans-Atlantic cable, telegraphed from New York to Chicago and published in the *Chicago Tribune* and the *Chicago Times* on May 22, 1881. It was 118,000 words making it the longest telegram ever sent.

It was the biggest scoop of the year for a United States' newspaper according to the *History of the Chicago Tribune*, (1922). The publishers explained that 92 compositors typeset the work in twelve hours. The *Chicago Times* printed it because it did not want to "scoop" by the *Tribune*, whose editors criticized the *Times'* version as full of errors. They did not think that the telegram was the feat, but the typesetting. That makes Nevada's Constitution the second longest telegram in history and the longest up until 1881, until someone finds one longer.

What did President Lincoln's Proclamation say?

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:
A PROCLAMATION

WHEREAS, The Congress of the United States passed an Act, which was approved on the 21st day of March last, entitled "An Act to enable the people of Nevada to form a Constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States:"

And whereas, the said Constitution and State Government have been formed, pursuant to the conditions prescribed by the fifth section of the Act of Congress aforesaid, and the certificate required by the said Act, and also a copy of the Constitution and ordinances, have been submitted to the President of the United States;

Now, therefore, be it known, that I, ABRAHAM LINCOLN. President of the United States, in accordance with the duty imposed on me by the Act of Congress aforesaid, do hereby declare and proclaim that the said State of Nevada is admitted into the Union on an equal footing with the original States. In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington this thirty-first day of October, in the year of our Lord one thousand eight hundred and sixty-four, and of the independence of the United States the eighty-ninth. (L. S.) ABRAHAM LINCOLN

By the President:

WILLIAM H. SEWARD, Secretary of State.

What happened to the copies sent by Overland Mail?

Nevada State Archives Staff asked the staff of the National Archives to search for extant copies of the 1864 State Constitution of Nevada, which were conveyed to Washington, D.C. by land, sea, and telegraph, and this is what they found.

"The text of the October 26, 1864 telegraphic version of the Constitution is captured in two forms. The first is a letter press copybook found in the records of the War Department's Central Telegraph Office. (Letter press is an early mechanical method for copying text by pressing freshly written pages against blank tissue paper pages.)

The message is addressed to "His Excy Abraham Lincoln" and sent by James N. Nye "Gvnr of the Territory of Nevada" and attested by Orion Clemens "Secy of the Territory of Nevada." The transcribed telegraphic message is 175 pages in length. The text of the telegram has been reproduced on National Archives Microfilm Publication M473.

The second copy is a handwritten, transcribed version of the telegraphic text located in the records of the Department of State, Territorial Papers series. The last sheet contains a note with the total word count (16,543) and the cost of transmission (\$4,303.27).

Regarding the official copies of the Nevada Constitution sent by land and sea, one survived and resides in the Territorial Papers of the Department of State. This handwritten copy has a silver seal and was signed by James M. Nye, Governor of the Territory of Nevada and attested by Orion Clemens, Secretary of the Territory of Nevada. A December 2, 1864 attached note on "Executive Mansion" stationery describes this as the "delayed certified copy." The note was signed by John G. Nicolay, President Lincoln's private secretary.

The two versions from the Territorial Papers series, Department of State, are reproduced on National Archives Microfilm Publication M13."

Nevada State Constitution: A Basic Bibliography

Bakken, Gordon M. "The Taxation of Mineral Wealth and the Nevada Constitutional Convention of 1864," *Nevada Historical Society Quarterly* 12 (Spring 1969): 5-15.

Bowers, Michael Wayne. *The Nevada State Constitution: A Reference Guide*. Westport, Conn.: Greenwood Press, 1993; and *The Sagebrush State: Nevada's History, Government, and Politics*. Reno: University of Nevada Press, 1996.

Brodhead, Michael J. "Accepting the Verdict: National Supremacy as Expressed in State Constitutions, 1861-1912." *Nevada Historical Society Quarterly*, 13 (Summer, 1970): 3-16. Compares state constitutions from Kansas to Arizona for their paramount allegiance" to the Federal Government.

Bullard, Frederic Lauriston. "Abraham Lincoln and the Statehood of Nevada," *American Bar Association Journal* (March - April 1940): 9p.

Bushnell, Eleanore, and Don W. Driggs. *The Nevada Constitution: Origin and Growth*. Sixth ed. *Nevada Studies in History and Political Science*, No. 8. Reno: University of Nevada Press, 1984. (Apportionment (Election Law) - Nevada. Nevada.

Driggs, Don W. *Nevada Politics & Government: Conservatism in an Open Society*. Lincoln, NE: University of Nebraska Press, 1996.

Edwards, Jerome E. "Federalism and the Nevada Constitution," *Halcyon* 10 (1988): 41-48; and see also "Union Made." *Nevada Magazine*, (Sept. - Oct., 1989?): 43-47.

Friedman, Ralph. "Nevada's Telegram," *Westways*, 46 (Oct., 1954): 16-17.

Gray, Leslie Burn. *The Source and the Vision, Nevada's Role in the Civil War Amendments and the Reconstruction Legislation*. Sparks, Nevada: The Gray Trust, 1990.

Green, Michael S. and Gary E. Elliott. *Nevada: Readings and Perspectives*. Reno, NV: Nevada Historical Society, 1997. "...From Nevada's best historians, from books, journal articles, and a few popular publications.

Horowitz, Robert F. *The Great Impeacher: A Political Biography of James M. Ashley*. New York: Brooklyn College Press, 1979. Although there is little information on Nevada, Ashley was the Chairman of the House Committee on Territories from 1861 to 1867. A Radical Republican, he drafted the Enabling Act that allowed Nevada to become a state in 1864.

Hulse, James Warren. *The Silver State: Nevada's Heritage Reinterpreted*. 2nd edition. Reno, NV: University of Nevada Press, 1998.

Johnson, David Alan. *Founding of the Far West: California, Oregon and Nevada, 1840-1890*. Berkeley: University of California Press, 1992. Discusses the beginnings of the first three far western states and the motivations of their "founding fathers."

_____. "Pioneers and Politics: Statemaking in the Far West, 1845 1865." Ph.D. dissertation, University of Pennsylvania, 1977.

_____. "A Case of Mistaken Identity: William M. Stewart and the Rejection of Nevada's First Constitution," in *Nevada Historical Society Quarterly* XXX/2 (Summer, 1987): 118 30.

_____. "Industry and the Individual on the Far Western Frontier: A Case Study of Politics and Social Change in Early Nevada," in *The Pacific Historical Review* (1982): 243 64.

Marsh, Andrew Jackson. *Official Report of the Debates and Proceedings in the Constitutional Convention of the State of Nevada, Assembled at Carson City, July 4th, 1964, to Form a Constitution and State Government*. San Francisco: Frank Eastman Printer, 1866.

Marsh, Andrew J., Samuel L. Clemens and Amos Bowen. *Reports of the 1863 Constitutional Convention of the Territory of Nevada*. Edited by William C. Miller and Eleanor Bushnell. Carson City: Nevada Legislative Counsel Bureau, 1972. Because the 1863 Constitution was rejected by Nevadans the proceedings were not published until this annotated version.

Political History of Nevada. 11th Edition. Carson City, NV: State Printing Office, 2006. See also earlier editions of this book for additional information.

Pomeroy, Earl Spencer. "Lincoln, the Thirteenth Amendment, and the Admission of Nevada," *Pacific Historical Review*, 12 (Mar., 1944): 362-68; and "Addendum," 13 (Mar., 1944): 111.

Rocha, Guy Louis. "Nevada's Emergence in the American Great Basin," *Nevada Historical Society Quarterly*, 38 (Winter, 1995): 255-81. Thoroughly discusses the naming of Nevada from the first attempts to organize a territory to the Constitutional Convention.

Smith, Calvin N. "Nevada Territory," in *Abraham Lincoln and the Western Territories*, edited by Ralph Y. McGinnis and Calvin N. Smith. Chicago: Nelson-Hall Publishers, 1994. Brief summary of the history of Nevada Territory using older sources.

Zimmerman, Gordon Irven. "A Comparative Rhetorical Analysis of the Nevada Constitutional Convention of 1864." Ph. D. dissertation, University of Minnesota, 1972.